

cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item G
July 6, 2009

SUBJECT: Approval of the Storm Drainage Facility Maintenance Easement Agreement for the Flagstar Bank site, located on Parcel I.D. No. 22-22-400-014 at 24235 Novi Road.

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division ^{RGH} ^{BTC}

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The Flagstar Bank Corporation, a Federal Savings Bank, has requested approval of the Storm Drainage Facility Maintenance Easement Agreement for the Flagstar Bank site, located at 24235 Novi Road (at the northwest corner of Novi and Ten Mile Roads). The enclosed agreement has been favorably reviewed by the City Attorney (Beth Kudla's June 19, 2009 letter, attached) and is recommended for approval.

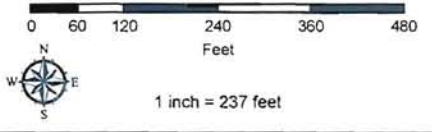
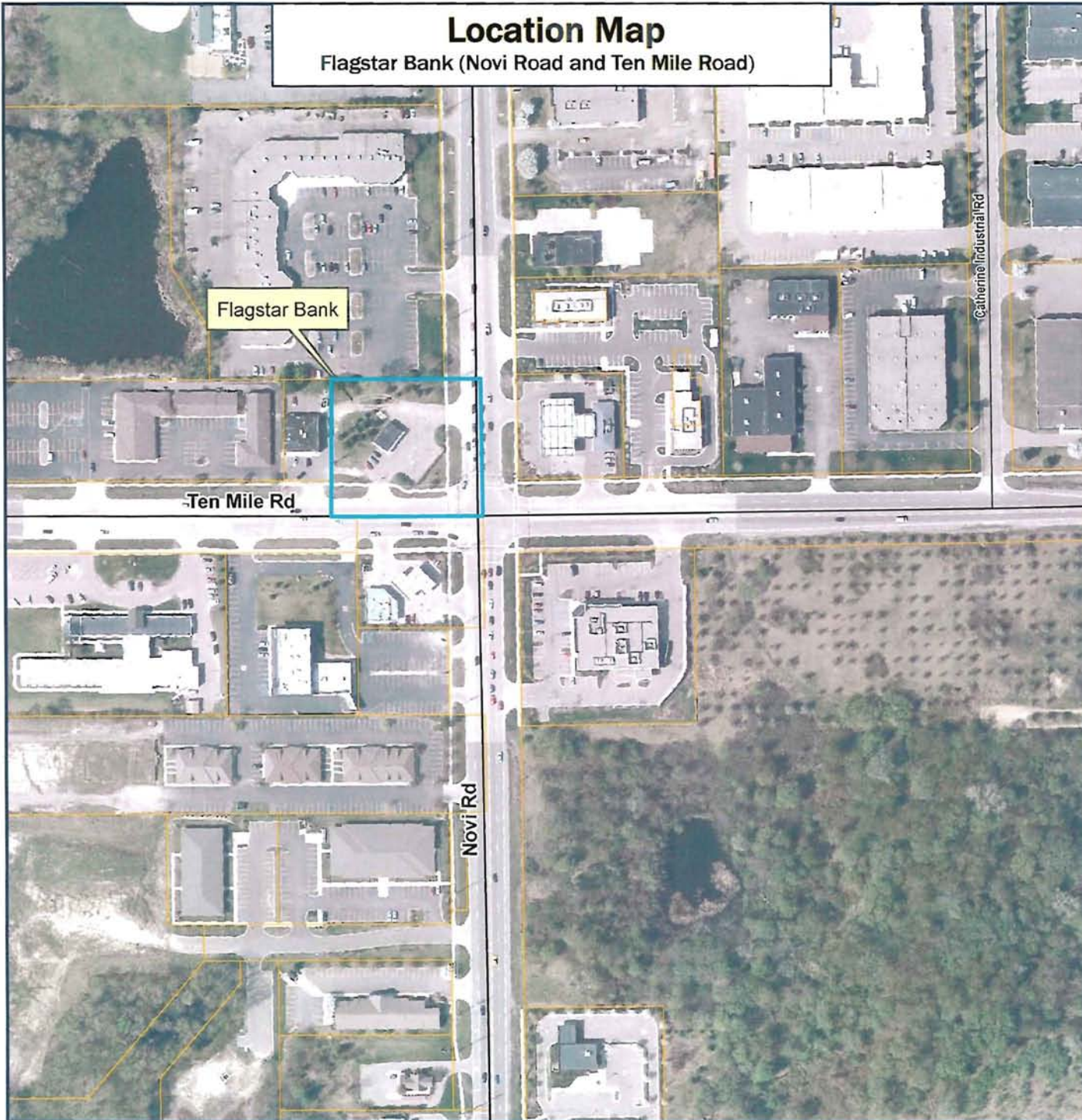
RECOMMENDED ACTION: Approval of the Storm Drainage Facility Maintenance Easement Agreement for the Flagstar Bank site, located on Parcel I.D. No. 22-22-400-014 at 24235 Novi Road.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Burke				
Council Member Crawford				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

Location Map

Flagstar Bank (Novi Road and Ten Mile Road)



City of Novi
Engineering Division
Department of Public Services
45175 W Ten Mile Rd
Novi, MI 48375
cityofnovi.org

Map Author: Brian Coburn
Date: 06/29/09
Project: Novi Road GR-12 Mile
Version # 1.0

MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

June 19, 2009

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secretwardle.com

Rob Hayes, Public Services Director
CITY OF NOVI
45175 West Ten Mile Road
Novi, Michigan 48375-3024

**Re: Flagstar Bank, SP06-59
Storm Drainage Facility Maintenance Easement Agreement
Our File No. 660127.NOVI**

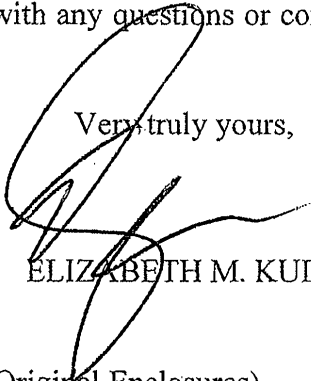
Elizabeth M. Kudla
Direct: 248-539-2846
bkudla@secretwardle.com

Dear Mr. Hayes:

We have received and reviewed, and enclosed please find, the Storm Drainage Facility Maintenance Easement Agreement for Flagstar Bank at Ten Mile & Novi Road. The Exhibits have been approved by the City's Consulting Engineer. The Agreement appears to be in order and may be placed on an upcoming City Council Agenda for approval. Once approved and executed by the City, the Agreement should be recorded with Oakland County Records by the City Clerk's Office.

Please feel free to contact me with any questions or concerns in regard to this matter.

Very truly yours,



ELIZABETH M. KUDLA

EMK

Enclosures

C: Maryanne Cornelius, Clerk (w/Original Enclosures)
Marina Neumaier, Assistant Finance Director (w/Enclosures)
Charles Boulard, Building Official (w/Enclosures)
Barb McBeth, Deputy Community Development Director (w/Enclosures)
Aaron Staup, Construction Engineering Coordinator (w/Enclosures)
Taylor Reynolds and Byron Hanson, Spalding DeDecker (w/Enclosures)
Sarah Marchioni, Building Permit Coordinator (w/Enclosures)
Sue Troutman, City Clerk's Office (w/Enclosures)
Dennis Miller, Flagstar Bank (w/enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

C:\NrPortbl\imanager\BKUDLA\1255201_1.DOC

STORM DRAINAGE FACILITY
MAINTENANCE EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made this _____ day of _____, 200__, by and between FLAGSTAR BANK, FSB, whose address is 5151 CORPORATE DRIVE, IRON, MI 48078 (hereinafter the "Owner"), and the City of Novi, its successors, assigns, or transferees, whose address is 45175 W. Ten Mile Road, Novi, MI 48375 (hereinafter the "City").

RECITATIONS:

A. Owner is the owner and developer of a certain parcel of land situated in Section ___ of the City of Novi, Oakland County, Michigan, described on the attached and incorporated **Exhibit A** (the "Property"). Owner has received final site plan approval for construction of a FLAGSTAR BANK development on the Property.

B. The BANK Development, shall contain certain storm drainage, detention and/or retention facilities, including but not limited to, a detention/sedimentation basin, for the collection, conveyance, storage, treatment and/or discharge of storm water from the Property in accordance with all approved plans, and all applicable ordinances, laws and regulations.

NOW, THEREFORE, the Owner hereby covenants and agrees that the Owner shall, at its own expense, perpetually preserve, maintain, and repair all storm drainage, detention and retention facilities, including all wetlands which are part of the system, to insure that the same continue to function as intended. The Owner shall establish a regular and systematic program of maintenance (the "Schedule of Maintenance") for such facilities and areas to insure that the physical condition and intended function of such areas and facilities shall be preserved and maintained. The Schedule of Maintenance and the annual estimated costs for maintenance and repairs for the first three (3) years are described in the attached Exhibit B.

In the event that the Owner shall at any time fail to carry out the responsibilities specified within this agreement, and/or in the event of a failure to preserve and/or maintain the storm water drainage, detention and retention facilities in reasonable order and condition, the City may serve written notice upon the Owner setting forth the deficiencies in maintenance and/or preservation along with a demand that the deficiencies be cured within a stated reasonable time period, and the date, time and place for a hearing before the City for the purpose of allowing Owner an opportunity to be heard as to why the City should not proceed with the correction of the deficiency or obligation which has not been undertaken or properly fulfilled. At any such hearing, the time for curing and the hearing itself may be extended and/or continued to a date certain. If, following such hearing, the person conducting the hearing shall determine that the obligation has not been fulfilled or failure corrected within the time specified in the notice, as determined by the City in its reasonable discretion, the City shall thereupon have the power and authority, but not the obligation, to enter upon the Property, or cause its agents or contractors to enter the Property through the Ingress/Egress Easement Area as described and depicted in **Exhibit C** and perform such obligation or take such corrective measures as reasonably found by the City to be appropriate or necessary with respect to the detention/sedimentation basin within the Detention/Sedimentation Basin Easement Area described and depicted in **Exhibit D**, for the purposes described above. The cost and expense of making and financing such actions by the City, including notices by the City and reasonable legal fees incurred by the City, plus an administrative fee in an amount equivalent to twenty-five (25%) percent of the total of all such costs and expenses incurred, shall be paid by Owner within thirty (30) days of a billing to the Owner. All unpaid amounts may be placed on the delinquent tax roll of the City as to the Property, and shall accrue interest and penalties, and shall be collected as, and shall be deemed delinquent real property taxes, according to the laws made and provided for the collection of delinquent real property taxes. In the discretion of the City, such costs and expenses may be collected by suit initiated against the Owner, and, in such event, the Owner shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

The parties hereto make this Agreement on behalf of themselves, their heirs, successors, assigns and transferees, and hereby warrant that they have the authority and capacity to execute this Agreement and bind the property as described in the terms and conditions of this agreement.

Invalidation of any of these covenants or conditions by Judgment or Court Order shall in no way affect the validity of any other provision which shall remain in full force and effect.

This agreement shall run with the land and be binding upon all owners, their agents, heirs, successors, assigns and transferees.

IN WITNESS WHEREOF, Owner has executed this Agreement as of the day and year first above set forth.

OWNER FLAGSTAR BANK, FSB

[Signature]

By:
Its:

DENNIS MILLER
ASSISTANT VICE PRESIDENT

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 19 day of June, 2007,
by Dennis Miller, as the ASSISTANT VICE PRESIDENT, FLAGSTAR BANK

CAROL REESER
NOTARY PUBLIC, MACOMB COUNTY, MICHIGAN
My Commission Expires August 11, 2012
Acting in Oakland County

Carol Reeser
Notary Public
Oakland County, Michigan
My Commission Expires: 8-11-2012

CITY OF NOVI
A Municipal Corporation

By:
Its:

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on this _____ day of
200, by, _____, on behalf of the City of Novi, a Municipal
Corporation.

Notary Public
Oakland County, Michigan
My Commission Expires: _____

Drafted by:
Elizabeth M. Kudla
30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040

And when recorded return to:
Maryanne Cornelius, City Clerk
City of Novi
45175 W. Ten Mile Rd
Novi, MI 48375

602691v1

Exhibit A
PROPERTY LEGAL DESCRIPTION

LEGAL DESCRIPTION - PROPERTY

PART OF THE SOUTHEAST 1/4 OF SECTION 22, T.1N.,R.8E, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEAST CORNER OF SECTION 22, T.1N.,R.8E, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN AND RUNNING THENCE S89°30'30"W, ALONG THE SOUTH LINE OF SAID SECTION 22, A DISTANCE OF 252.30 FEET TO A POINT; THENCE NORTH, A DISTANCE OF 43.00 FEET TO A POINT ON THE NORTH LINE OF TEN MILE ROAD (WIDTH VARIES), SAID POINT BEING THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN BEING DESCRIBED; PROCEEDING THENCE FROM SAID POINT OF BEGINNING NORTH, A DISTANCE OF 186.20 FEET TO A POINT; THENCE N89°30'30"E A MEASURED DISTANCE OF 205.39 FEET (DESCRIBED 209.30 FEET) TO A POINT ON THE WEST LINE OF NOVI ROAD (WIDTH VARIES); THENCE S00°58'43"E, ALONG THE WEST LINE OF SAID NOVI ROAD, SAID LINE BEING 43.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES TO AND PARALLEL WITH THE EAST LINE OF SAID SECTION 22, A DISTANCE OF 176.20 FEET TO A POINT; THENCE S44°15'54"W, ALONG A STREET LINE CONNECTING THE WEST LINE OF SAID NOVI ROAD WITH THE NORTH LINE OF SAID TEN MILE ROAD, A MEASURED DISTANCE OF 14.08 FEET (DESCRIBED 14.20 FEET) TO A POINT ON THE NORTH LINE OF SAID TEN MILE ROAD; THENCE S89°30'30"W, ALONG THE NORTH LINE OF SAID TEN MILE ROAD, SAID LINE BEING 43.00 FEET NORTH OF, AS MEASURED AS RIGHT ANGLES TO AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION 22, A MEASURED DISTANCE OF 198.57 FEET (DESCRIBED 199.30 FEET) TO THE POINT OF BEGINNING. CONTAINING 38,488 SQUARE FEET OR 0.884 ACRES, MORE OR LESS, OF LAND AREA. THE ABOVE DESCRIBED PARCEL OF LAND IS SUBJECT TO AN EASEMENT FOR WATER MAIN PURPOSES AS RECORDED IN LIBER 6849 OF DEEDS ON PAGE 869, OAKLAND COUNTY RECORDS AND A POLE LINE PERMIT AS RECORDED IN LIBER 3433 OF DEEDS ON PAGE 17, OAKLAND COUNTY RECORDS.

PARCEL IDENTIFICATION NUMBER 22-22-400-014

NF **NOWAK & FRAUS**

Consulting Engineers • Land Surveyors • Land Planners

1310 N. Stephenson Highway
Royal Oak, Michigan 48067-1508

Tel. (248) 399-0886
Fax. (248) 399-0805

PREPARED FOR:
FLAGSTAR BANK, FSB
CITY OF NOVI

SCALE	REVISED	DRAWN	JOB No.	SHEET
None	10/15/08	D. McConkey	C705	1 of 1

Exhibit B

STORMWATER MAINTENANCE AGREEMENT

STORM WATER MANAGEMENT SYSTEM MAINTENANCE TASKS AND SCHEDULE

COMPONENTS:	SCHEDULE:		ANNUALLY OR AS NECESSARY	CLEANED OUT IMMEDIATELY	QUARTERLY	UNDER NORMAL OPERATING CONDITIONS AT THE SAME TIME AS SEDIMENT REMOVAL
VORTECHNICS	X	X				
DRAINAGE STRUCTURES	X	X		X	X	X
CATCH BASIN SUMPS	X	X		X		
STORM SEWER SYSTEMS	X					
PARKING AREAS AND DRIVES			X	X		

TASKS:	QUARTERLY	WHEN SEDIMENT DEPTH HAS ACCUMULATED TO WITHIN SIX INCHES OF THE DRY-WEATHER WATER LEVEL	ANNUALLY OR AS NECESSARY	CLEANED OUT IMMEDIATELY	QUARTERLY	UNDER NORMAL OPERATING CONDITIONS AT THE SAME TIME AS SEDIMENT REMOVAL
1. INSPECT AND MAINTAIN THE VORTECHNICS UNIT PER MANUFACTURER'S RECOMMENDATIONS.	X					
2. REGULAR INSPECTION IS THE KEY TO EFFECTIVE MAINTENANCE. THE RATE AT WHICH THE SYSTEM COLLECTS SEDIMENTS AND POLLUTANTS WILL DEPEND ON THE SITE ACTIVITIES AND SEASONS. REGULAR SWEEPING WILL SLOW ACCUMULATIONS.	X					
3. INSPECT THE ENTIRE STORM EVENT AND PERFORM MAINTENANCE AND REPAIR AS NECESSARY.	X					
THE OWNER SHALL MAINTAIN A LOG OF ALL INSPECTION AND MAINTENANCE ACTIVITIES AND MAKE THE LOG AVAILABL TO CITY PERSONNEL AS NEEDED.						

REQUIRED MAINTENANCE

REMOVE GAS, OILS, AND SEDIMENTS WHICH MAY BUILD UP IN THE VORTECHNICS STRUCTURE TWICE A YEAR, THE FIRST WEEK OF MAY AND NOVEMBER EACH YEAR.

ESTIMATED COST FOR OPERATION FOR THE FIRST 3 YEARS OF MAINTENANCE IS \$3000.00

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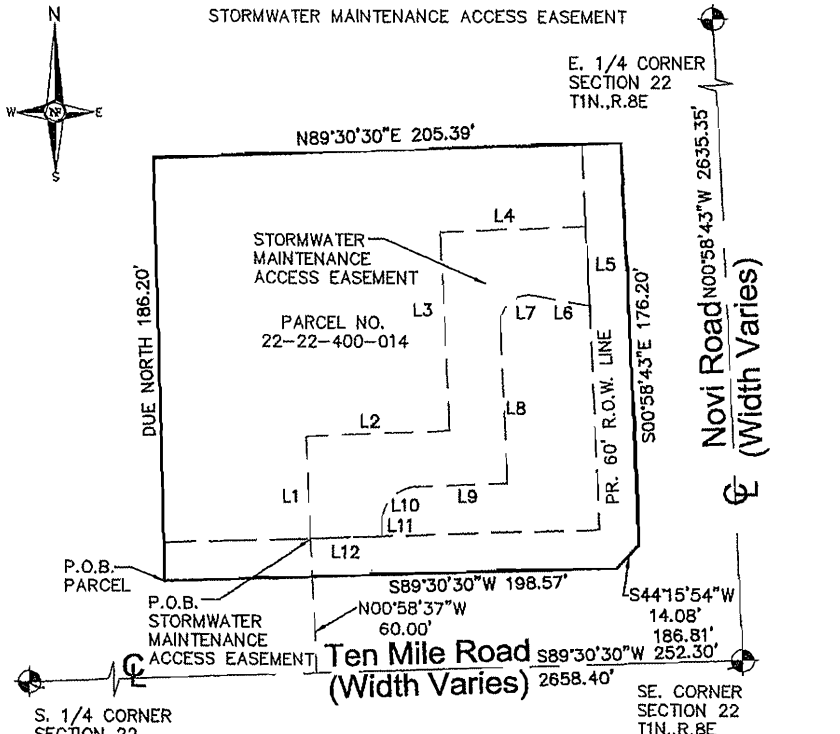
Tel. (248) 399-0886
Fax. (248) 399-0805

PREPARED FOR:
FLAGSTAR BANK, FSB
CITY OF NOV

SCALE REVISED DRAWN JOB No. SHEET
No Scale 10/15/08 D. McConkey C705 1 of 1

Exhibit C

STORMWATER MAINTENANCE ACCESS EASEMENT



S. 1/4 CORNER
SECTION 22
T1N., R.8E

E. 1/4 CORNER
SECTION 22
T1N., R.8E

S.E. CORNER
SECTION 22
T1N., R.8E

LINE TABLE		
LINE	DIRECTION	LENGTH
L1	N00°58'37"W	44.62'
L2	N89°01'23"E	63.31'
L3	N00°58'37"W	87.45'
L4	N89°01'23"E	63.50'
L5	S00°58'37"E	35.00'
L6	N77°47'43"W	24.17'
L7	RADIUS	13.00'
	CHORD S50°36'50"W	
	LENGTH	23.41'
L8	S00°58'37"E	69.31'
L9	S89°00'14"W	40.36'
L10	RADIUS	15.00'
	CHORD S44°00'48"W	
	LENGTH	23.56'
L11	S00°58'37"W	5.87'
L12	S89°30'30"W	31.95'

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PREPARED FOR:
FLAGSTAR BANK, FSB
CITY OF NOVI

SCALE 1" = 50'
REVISED 10/15/08
DRAWN D. McConkey
JOB No. C705
SHEET 1 of 2

Exhibit C

STORMWATER MAINTENANCE ACCESS EASEMENT

LEGAL DESCRIPTION - STORM MAINTENANCE ACCESS EASEMENT

A STORM MAINTENANCE ACCESS EASEMENT IS DESCRIBED AS FOLLOWS: PART OF THE SOUTHEAST 1/4 OF SECTION 22, T.1N.,R.8E, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN AND BEING MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHEAST CORNER OF SECTION 22, T.1N.,R.8E, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN AND RUNNING THENCE S89°30'30"W, ALONG THE SOUTH LINE OF SAID SECTION 22, A DISTANCE OF 186.81 FEET TO A POINT; THENCE N00°58'37"W 60.00 FEET TO THE POINT OF BEGINNING OF SAID EASEMENT; THENCE N00°58'37"W 44.62 FEET; THENCE N89°01'23"E 63.31 FEET; THENCE N00°58'37"W 87.45 FEET; THENCE N89°01'23"E 63.50 FEET; THENCE S00°58'37"E 35.00 FEET; THENCE N77°47'43"W 24.17 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT (RADIUS 13.00' FEET, CHORD BEARS S50°36'50"W 23.41 FEET; THENCE S00°58'37"E 69.31 FEET; THENCE S89°00'14"W 40.36 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT (RADIUS 15.00 FEET, CHORD BEARS S44°00'48"W 23.56 FEET; THENCE S00°58'37"W 5.87 FEET; THENCE S89°30'30"W 31.95 FEET TO THE POINT OF BEGINNING.

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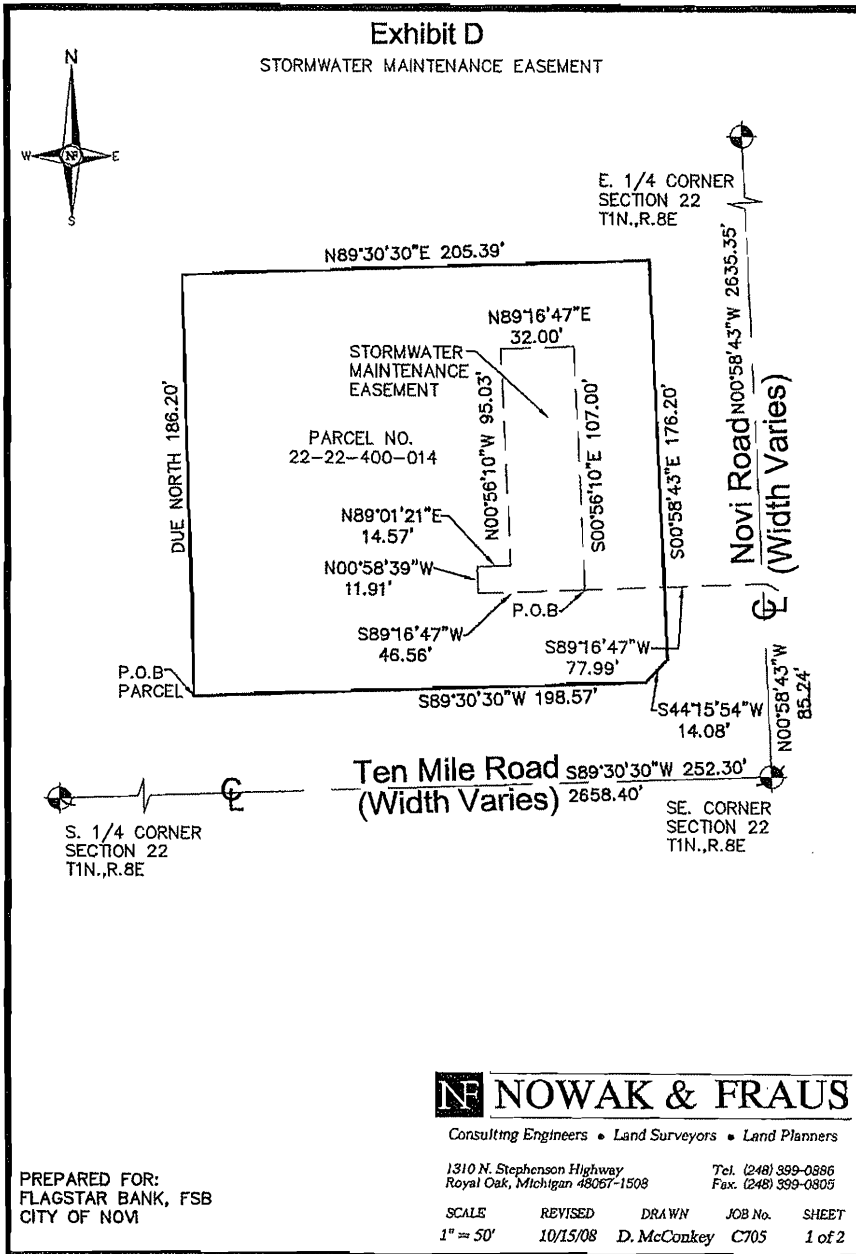
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PREPARED FOR:
FLAGSTAR BANK, FSB
CITY OF NOVI

SCALE	REVISED	DRAWN	JOB No.	SHEET
None	10/15/08	D. McConkey	C705	2 of 2

Exhibit D

STORMWATER MAINTENANCE EASEMENT



NF NOWAK & FRAUS

Consulting Engineers • Land Surveyors • Land Planners

1310 N. Stephenson Highway
Royal Oak, Michigan 48067-1508

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Fax. (248) 599-0809

PREPARED FOR:
FLAGSTAR BANK, FSB
CITY OF NOVI

SCALE	REVISED	DRAWN	JOB No.	SHEET
1" = 50'	10/15/08	D. McConkey	C705	1 of 2

Exhibit D

STORMWATER MAINTENANCE EASEMENT

LEGAL DESCRIPTION - STORM MAINTENANCE EASEMENT

A STORMWATER MAINTENANCE EASEMENT IS DESCRIBED AS FOLLOWS: PART OF THE SOUTHEAST 1/4 OF SECTION 22, T.1N.,R.8E, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN AND BEING MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHEAST CORNER OF SECTION 22, T.1N.,R.8E, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN THENCE N00°58'43"W, 85.24 FEET TO A POINT; THENCE S89°16'47"W 77.99 FEET TO THE POINT OF BEGINNING OF SAID EASEMENT; THENCE S89°16'47"W 46.56 FEET; THENCE N00°58'39"W 11.91 FEET; THENCE N89°01'21"E 14.57 FEET; THENCE N00°56'10"W 95.03 FEET; THENCE N89°16'47"E 32.00 FEET; THENCE S00°56'10"E 107.00 FEET TO THE POINT OF BEGINNING.

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SCALE	REVISED	DRAWN	JOB No.	SHEET
None	10/15/08	D. McConkey	C705	2 of 2